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13 Attorneys for the Defendants

14 **UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17
18 CENTER FOR BIOLOGICAL
19 DIVERSITY,

20 Plaintiff,

21 v.

22 MICHAEL CHERTOFF, in his
23 official capacity as Secretary of the
U.S. Department of Homeland
24 Security, REAR ADMIRAL PAUL
F. ZUKUNFT, in his official
capacity as Commander of U.S.
25 Coast Guard District Eleven, and
UNITED STATES COAST
GUARD,

26 Defendants.

)
)
) No. 3:08-cv-02999-MMC
)
) **STIPULATION REGARDING DEFENDANTS'**
) **FIRST AMENDED ANSWER AND**
) **SCHEUDLE FOR CASE MANAGEMENT**
) **CONFERENCE AND CROSS-MOTIONS FOR**
) **SUMMARY JUDGMENT ; ORDER**

1 Plaintiff, the Center for Biological Diversity, and Defendants, Michael Chertoff, *et al.*, by
2 and through undersigned counsel, hereby stipulate to the filing of Defendants' First Amended
3 Answer and a revised schedule for the case management conference and briefing on cross-
4 motions for summary judgment as set forth below.

5 **RECITALS**

6 WHEREAS, on June 18, 2008, Plaintiff filed its Complaint.

7 WHEREAS, on August 18, 2008, Defendants filed their Answer;

8 WHEREAS, on October 31, 2008, Defendants filed a Motion to File a First Amended
9 Answer, to which Plaintiffs have now consented.

10 WHEREAS, on August 26, 2008, Plaintiff filed its Motion for Summary Judgment.

11 WHEREAS, pursuant to the Court's Order dated September 4, 2008, Defendants'
12 Opposition to Plaintiffs' Motion for Summary Judgment is due November 10, 2008; Plaintiff's
13 reply brief is due November 24, 2008; and oral argument is scheduled for December 12, 2008.

14 WHEREAS, on October 28, 2008, Defendants informed Plaintiff that Defendants intend
15 to file a Cross-Motion for Summary Judgment.

16 WHEREAS, there is a Case Management Conference currently scheduled for November
17 21, 2008.

18 WHEREAS, the parties continue to discuss settlement. Further, they have yet to be
19 contacted by the ADR office for the Early Settlement Conference in accordance with the
20 stipulation they filed on September 3, 2008.

21 WHEREAS, the parties have conferred and believe that a new revised schedule for
22 briefing on cross-motions for summary judgment would conserve resources and promote
23 efficiency.

24 **THEREFORE, THE PARTIES HEREBY STIPULATE AS FOLLOWS:**

25 1. The briefing schedule in the Court's Order dated September 4, 2008, is modified
26 as follows:

27 • Defendants' Cross-Motion for Summary Judgment and Opposition to
28 Plaintiff's Motion for Summary Judgment shall be due on November 14,

2008, and the combined supporting memorandum shall not exceed 25 pages;

- Plaintiff's combined Reply in support of Plaintiffs' Motion for Summary Judgment and Opposition to Defendants' Motion for Summary Judgment shall be due on December 12, 2008, and shall not exceed 35 pages;
- Defendants' reply brief shall be due January 9, 2009, and shall not exceed 20 pages.

2. The hearing on the parties' cross-motions for summary judgment shall be January 23, 2009.

3. Within seven days of the date of the Court's Order approving this Stipulation, Defendants shall file a Notice of Withdrawal of their Motion to Amend their Answer (filed on October 31, 2008), and, having received Plaintiff's written consent, may file their First Amended Answer pursuant to Fed. R. Civ. P. 15(a)(2).

4. To allow more time for settlement discussions, and to accommodate counsels' schedules, the Case Management Conference shall be held on December 12, 2008

Respectfully submitted,

DATED: November 5, 2008

RONALD J. TENPAS
Acting Assistant Attorney General

/s/ Kevin W. McArdle
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Attorneys for Federal Defendants

1 DATED: November 5, 2008

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2 /s/ Leah Russin
3 Leah J. Russin

4 Counsel for Plaintiff

5 **IT IS SO ORDERED**, with the exceptions that defendants' reply brief shall not exceed 15 pages, defendants'
6 answer shall be filed no later than November 21, 2008, and the Case Management
Conference is continued to March 6, 2009.

7 Dated: November 7, 2008



8 HON. MAXINE CHESNEY
9 UNITED STATES DISTRICT JUDGE